

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 GUN CLUB ROAD
WEST PALM BEACH, FLORIDA

IN THE MATTER OF:

Order No. 2006____-DAO-WS

Declaration of Phase I Moderate Water
Shortage Restrictions For All Use Classes
Using Surface Water From Lake Okeechobee
and Surface Waters Hydraulically Connected to
Lake Okeechobee within the Everglades Agricultural
Area Water Use Basin, Lake Shore Perimeter Water
Use Basin, Caloosahatchee River Water Use Basin,
Portions of the Indian Prairie Water Use Basin and
the St. Lucie River Water Use Basin Within Okeechobee,
Glades, Palm Beach, Lee, Hendry, and Martin Counties.

**DECLARATION OF PHASE I MODERATE
WATER SHORTAGE RESTRICTIONS**

The Governing Board of the South Florida Water Management District (hereinafter "District"), after considering recommendations of District staff and being otherwise fully apprised of the matter, issues this Order pursuant to Rule 40E-21.231, Florida Administrative Code (F.A.C.), based on the following Findings of Fact and Ultimate Findings of Facts and Conclusions of Law.

FINDINGS OF FACT

1. The water sources subject to this Order are Lake Okeechobee and the surface waters hydraulically connected to Lake Okeechobee within the Everglades Agricultural Area Water Use Basin, Lake Shore Perimeter Water Use Basin, Caloosahatchee River Water Use Basin, portions of the Indian Prairie Water Use Basin, and the St. Lucie River Water Use Basin. These basins are within Okeechobee,

Glades, Palm Beach, Lee, Hendry, and Martin Counties. The affected areas are depicted on the attached Exhibit A.

2. The use classes subject to this Order are all use classes, non-agricultural consumptive uses as well as agricultural uses, within the basins identified in Paragraph 1.

3. During the “wet season” from June through October, Lake Okeechobee normally receives significant recharge from direct rainfall and inflow through surface water runoff from the watershed basins surrounding it. Under average rainfall conditions, Lake Okeechobee and its tributaries receive about 28 inches of rain from June through October, and Lake Okeechobee levels average about 16.2 feet NGVD 29 (14.9 feet NAVD 88) at the end of October.

4. During the months of June through October, 2006, however, the normal wet season rainfall conditions to recharge the low levels in Lake Okeechobee were deficient. As a result, water levels in Lake Okeechobee are relatively low. In 2006, rainfall for the months of June through October in watershed basins recharging Lake Okeechobee was up to 28% below average. Rainfall over Lake Okeechobee was also 23% below normal for the June through October 2006 time period.

5. Pursuant to Rule 40E-22.332, F.A.C., when water levels within Lake Okeechobee fall below a specified water shortage management zone, set forth in Figure 22-4 of the Rule, a Phase I water shortage may be declared within the Lake Okeechobee Region.

6. As of November 1, 2006, the level of Lake Okeechobee was 12.68 feet

NGVD 29 (11.38 feet NAVD 88). Lake Okeechobee water levels fell below the water shortage management line in Rule 40E-22.332 (Figure 22-4) on October 24, 2006 and have remained below the line.

7. When considering whether to declare a water shortage, in addition to considering that Lake Okeechobee levels have fallen within this zone, the District considers other factors that evaluate the sufficiency of remaining water supplies, the projected user demands, climate forecasts, the potential for serious harm to the water resources, projected water savings from cutting back user withdrawals from the affected source, and any projected impacts on imposing such cutbacks on the consumptive uses, pursuant to Rule 40E-21.221, F.A.C. These considerations are discussed further below.

8. Demands of all agricultural water users from Lake Okeechobee within the basins affected by this Order are typically 600,000 acre-feet per year under average conditions, and are higher during the months of November through June. During dry conditions, the demands of the consumptive users increase due to a greater rate of evapotranspiration and supplemental water needs. This represents over 1.5 feet of water from Lake Okeechobee.

9. In addition to these direct permitted demands from Lake Okeechobee, during dry periods Lake Okeechobee may be relied upon to provide a backup water supply for the Lower East Coast (primarily Miami-Dade, Broward and Palm Beach Counties) and to recharge the surficial aquifer system within this area to recharge wellfields and prevent saltwater intrusion.

10. To date, the year 2006 has been one of the driest calendar years on record District-wide. The first 10 months of 2006 have been the second driest on record, leaving many areas of the District in 1-in-25-year drought conditions. October 2006 was the third driest on record since 1932.

11. The Climate Prediction Center is predicting a relatively low chance of below-normal November 2006 through April 2007 rainfall. Weak to moderate El Nino conditions may increase chances of above average winter rainfall, but this is not guaranteed. Current and projected inflows into Lake Okeechobee over the dry season are relatively small. Lake Okeechobee stage projections indicate a significant chance that levels will remain relatively low through the end of the calendar year.

12. The ability of individual water users to withdraw water at the lower elevations in Lake Okeechobee and connected surface waters may be significantly impaired during the coming dry season. This highlights the need for installation of additional increased capacity or lower intake pumping facilities, beyond those contemplated in the existing permit conditions for affected consumptive users.

13. As a result of the above, there is a significant potential that water supplies from Lake Okeechobee over the next dry season will decline to the extent that sufficient water will not be available to meet the present and anticipated requirements of the water users within the subject area, while protecting the water resources from serious harm and meeting secondary dry season demands within the Lower East Coast region. Analyses show that immediate restrictions on water user withdrawals within the

identified basins from Lake Okeechobee and surface waters hydraulically connected to Lake Okeechobee, are essential to extend currently available water supplies.

14. Pursuant to Rule 40E-21.231, F.A.C., the District is authorized to declare a water shortage to equitably distribute Lake Okeechobee water supplies through implementation of the District's Water Shortage Plan, Chapter 40E-21, and Rules 40E-22.312-.332, F.A.C.

15. Pursuant to Rule 40E-21.521 and Rule 40E-22.332, F.A.C., under the above identified conditions, Phase I water shortage restrictions may be authorized requiring cutbacks on consumptive use demands, including agricultural use cutbacks estimated for 1 in 10 year rainfall conditions by 15%.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

16. Section 373.246, Florida Statutes (F.S.), authorizes the Governing Board to adopt a water shortage plan to regulate the withdrawal and use of water resources of the District. Chapter 40E-21, F.A.C., is the District's Water Shortage Plan.

17. Rule 40E-21.231(1), F.A.C., authorizes the Governing Board to declare a water shortage when the District is of the opinion there is a possibility that insufficient water will be available within a source class to meet the estimated present and anticipated user demands from that source, or to protect the water resource from serious harm.

28. Pursuant to Rule 40E-21.231, F.A.C., the District is authorized to declare a water shortage to equitably distribute Lake Okeechobee water supplies through implementation of the District's Water Shortage Plan, Chapter 40E-21 and Rules 40E-

22.312-.332, F.A.C.

19. Pursuant to Rule 40E-22.332, F.A.C., when water levels within Lake Okeechobee fall below a specified water shortage management zone, set forth in Figure 22-4 of the rule, a Phase I water shortage may be declared within the Lake Okeechobee Region pursuant to Rule 40E-21.521, F.A.C. In addition to considering that Lake Okeechobee levels have fallen within this zone, the District also considers other factors that evaluate the sufficiency of remaining water supplies, the projected user demands, climatic forecasts, the potential for serious harm to the water resources, projected water savings from cutting back user withdrawals from the affected source, and any projected impacts on imposing such cutbacks on the consumptive uses. Rule 40E-21.221, F.A.C.

20. Rule 40E-21.401, F.A.C., and permit conditions authorize the Governing Board to obtain data concerning monitoring of water usage. The District has monitored the conditions of the water resources and the needs of the users.

21. Based on the above Findings of Fact, including findings regarding Lake Okeechobee levels, climatic forecasts, and projected user demands over the dry season, the estimated present and anticipated available water supplies within all use classes within the Everglades Agricultural Area Water Use Basin, Lake Shore Perimeter Water Use Basin, Caloosahatchee River Water Use Basin, portions of the Indian Prairie Water Use Basin, and the St. Lucie River Water Use Basin, are insufficient to meet the estimated present and anticipated user demands.

22. As a result, Phase I water shortage restrictions may be authorized requiring cutbacks on consumptive use demands, including agricultural use cutbacks

for 1 in 10 year rainfall conditions by fifteen percent (15%).

ORDER

Based upon the above Findings of Fact, Ultimate Findings of Facts and Conclusion of Law, the Governing Board orders that:

1. A water shortage is declared and Phase I Moderate Water Shortage Restrictions are imposed on all uses of water, in accordance with Rule 40E-21.521, F.A.C., from Lake Okeechobee or surface waters hydraulically connected to Lake Okeechobee within the area depicted in Exhibit A. A copy of the Phase I Moderate Water Shortage Restrictions in Rule 40E-21.521, F.A.C., is attached as Exhibit B.

2. Pursuant to Section 373.119(2), F.S., and in recognition of the impending need of multiple users within the affected basins to lower pump intakes or install additional temporary pump facilities, the Governing Board issues this Order authorizing the temporary installation and operation of pumping facilities located within the area which is the subject of this Order and lower intake of existing permitted facilities as needed. Application processing fees shall be waived for temporary installations authorized by this Order. This authorization shall last until the Order is rescinded. This Order shall automatically authorize users to install such temporary pumping facilities, so long as the following conditions are satisfied:

A. A written description of the temporary pumping facility or lowered intake is submitted to District staff which indicates the intent to temporarily enable the permitted consumptive user to access surface water at lower elevations.

B. An 8-1/2" x 11' drawing is submitted and clearly shows all additional temporary facilities to be placed within the District's right of way. Pump size and capacity as well as the diameter, length and elevation of any culvert installation must be depicted on the drawing.

C. The user provides reasonable assurances that all reasonable water quality protection measures necessary to avoid off-site impacts will be employed. Measures may include turbidity screens, hay bales, fuel spill containment tank, etc. Also, the user provides reasonable precautions to ensure that all temporary facilities do not increase wildfire potential.

D. The user provides reasonable assurances that the temporary installations, and the operation thereof, will not degrade or otherwise interfere with the integrity of any channel, bank, berm, levee, structure or any secondary channel, bank, berm, levee or structure.

E. The user provides reasonable assurances the temporary pumping units and appurtenant equipment shall be installed in such a manner so as to not block or otherwise interfere with District access. Piping shall be properly buried or bridged in a manner satisfactory to the District.

F. A 24-hour telephone contact person with a listing of the person's work, residence, mobile and pager numbers must be provided with the written submittal.

G. The written submittal must include a statement accepting application of all standard limiting conditions contained in Rule 40E-6.381, F.A.C., to the temporary pumping installation authorized by this Order.

H. Users must provide evidence of their pump installation design and intent to comply with the terms of this Order, along with appropriate 24 hour contact information at the site, in a visible, weatherproof pouch or cover.

I. The written submittal must include a statement accepting the requirement that all temporary facilities will be removed from the canal and right of way within 15 days after the Governing Board or Executive Director rescinds this Declaration of Water Shortage.

J. The written submittal must include a statement accepting the requirement that any canal right of way impacted by the placement of the temporary facilities will be restored to the satisfaction of the District within 15 days after the Governing Board or Executive Director rescinds this Declaration of Water Shortage.

3. Permitted water users are requested to continue submitting water usage monitoring data in accordance with permit conditions. Pumpage reports for the

temporary facilities authorized pursuant to Paragraph 2 must also be submitted along with these pumpage reports. The Director of the Water Use Regulation Department is authorized to request, in writing, those permitted water users whose permit conditions require submittal of water usage monitoring data to provide additional data or data submittals at increased frequencies, as determined appropriate.

4. A user may request relief from this Order by filing an application for variance in accordance with Rule 40E-21.275, F.A.C., but must conform to the water use restrictions until the Executive Director grants a temporary variance or the Governing Board grants a variance.

5. The Governing Board requests that every city and county commission, state and county attorney, sheriff, police officer and other appropriate local government official assist within the boundaries of Exhibit A in the implementation and enforcement of this Water Shortage Order. The District staff will cooperate with the local governments in implementing such enforcement measures.

6. This Order imposing Phase 1 moderate water shortage restrictions shall become effective on November 17, 2006 and shall remain in effect until modified or rescinded by the Governing Board, or the Executive Director, if the circumstances set forth in Subsection 40E-21.291(5), F.A.C., are present.

7. A copy of the Notice of Rights is attached as Exhibit C.

DONE and ORDERED this _____ day of November, 2006, at West Palm Beach, Palm Beach County, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
By ITS GOVERNING BOARD

CAROL ANN WEHLE
Executive Director

ATTEST:

LEGAL FORM APPROVED:

BY: _____
Assistant Secretary

BY: _____

DATE: _____

DATE: _____